
**BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

UTAH CHAPTER OF THE SIERRA CLUB,
SOUTHERN UTAH WILDERNESS
ALLIANCE, NATURAL RESOURCES
DEFENSE COUNCIL, and NATIONAL
PARKS CONSERVATION ASSOCIATION,

Petitioners,

DIVISION OF OIL, GAS AND MINING,

Respondent,

ALTON COAL DEVELOPMENT, LLC and
KANE COUNTY, UTAH

Intervenors,

ORDER CONCERNING
MOTION FOR INTRODUCTION OF
DEPOSITION EXCERPTS AND
MOTION FOR POSTPONEMENT OF
BRIEFING SCHEDULE

Docket No. 2009-019
Cause No. C/025/0005

FILED

MAY 13 2010

**SECRETARY, BOARD OF
OIL, GAS & MINING**

The parties filed the following briefs concerning motions to introduce excerpts of certain depositions and to extend the post hearing briefing schedule:

- Petitioners' Motion for Introduction of Excerpts of Rule 30(b)(6) Deposition Transcripts Regarding Air Quality and Cultural Resource Issues ("Petitioners' Motion");
- Petitioners' Motion for Postponement of Post-Hearing Briefing Schedule.
- Division's Objections to Petitioners' Motion to Offer Air Quality and Cultural Resource Depositions into Evidence ("Divisions' Opposition Memorandum").
- Permittee's Opposition to Petitioners' Motion for Introduction of Deposition Transcripts and Postponement of Post-Hearing Briefing Schedule ("Permittee's Opposition Memorandum").

NOW THEREFORE, the Board, having considered the above-listed briefs, and good

cause appearing, hereby makes the following order.

The Board believes that there was some miscommunication between the parties and the Board concerning the details of the process the parties agreed upon during the April hearing concerning the later submission of portions of deposition transcripts as evidence. The Board believes this miscommunication created differing views on the part of each party concerning what they were obligated to do during the April hearing dates with respect to the witnesses who testified and with respect to their depositions. In the interest of fully developing the record and being fair to all sides the Board will take the following action.

The Board holds that regardless of the miscommunication among the parties at the April hearing, Petitioners may offer the portions of the 30(b)(6) depositions they identified in the Petitioners' Motion. The respondents will have an opportunity pursuant to Rule 32(b) to object to the admission of some or all of the testimony contained within the identified portions of deposition transcripts on evidentiary grounds. Respondents should make these objections, and also counter-designate and offer any portions of the subject depositions they deem advisable, by Monday, May 17th. If counter-designations are made, Petitioners will have until Thursday, May 20th to make any objections regarding admissibility.

The Division in its Opposition Memorandum indicated that, in reliance on its understanding that no portion of the subject depositions would be offered as evidence, it may have refrained from asking certain clarifying questions of those witnesses during their testimony at the April hearing. If, in light of the portions of deposition transcripts identified by Petitioner in its motion and the Board's ruling announced herein, any Respondent believes that it should be allowed to recall any of the subject witnesses to briefly ask any additional questions, this should be brought to the Board's attention by Monday, May 17th. Given the time constraints of this

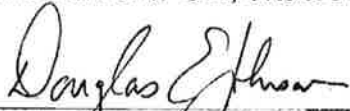
case the Board urges Respondents to consider carefully whether any further examination of such witnesses is necessary, and if so, how extensive such examination need be.

In connection with their motion concerning the deposition transcripts, Petitioners have sought to postpone the briefing schedule previously established for closing trial briefs on the cultural resources and air quality issues. As was previously communicated to the parties by Board counsel, the Board left in place the May 12, 2010 deadline for the submission of the lead trial briefs on those claims. In the next few days the Board may postpone the deadline for the filing of the reply briefs.

The Chairman's signature on a facsimile copy of this Order shall be deemed the equivalent of a signed original for all purposes.

Issued this 13 day of May, 2010

UTAH BOARD OF OIL, GAS & MINING



Douglas E. Johnson, Chairman

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing ORDER to be mailed by first class mail, postage prepaid, the 13th day of May, 2010 to:

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